

32268
SEC

SERVICE DATE - NOVEMBER 1, 2001

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42065

RAILWAY PROGRESS INSTITUTE COMMITTEE ON TANK CARS
PETITION FOR INVESTIGATION AND PROTEST PURSUANT TO EX PARTE NO. 328

STB Docket No. 42066

THE CHLORINE INSTITUTE, INC. — PROTEST AND
PETITION FOR INVESTIGATION — TARIFF PUBLICATIONS OF
NORFOLK SOUTHERN RAILWAY COMPANY

STB Docket No. 42067

U.S. CLAY PRODUCERS TRAFFIC ASSOCIATION, INC. — PROTEST AND
PETITION FOR INVESTIGATION — TARIFF PUBLICATIONS OF
NORFOLK SOUTHERN RAILWAY COMPANY

Decided: October 31, 2001

Petitioners in these three proceedings requested that the Board institute an investigation of Norfolk Southern Railway Company's (NS) Supplement 2 to Freight Tariff NS 6004-B, which was issued on September 12, 2001, and scheduled to take effect on October 3, 2001. Petitioners filed their petitions pursuant to Ex Parte No. 328, Investigation of Tank Car Allowance System, 3 I.C.C.2d 196 (1986), alleging that the supplement to NS 6004-B was unlawful or departed from the provisions of Ex Parte No. 328. Petitioners contended that the tariff would impose new charges for empty private cars held on railroad tracks.

NS submitted a letter on October 10, 2001, advising the Board that it had withdrawn the challenged provision by issuance of Supplement 3 to Freight Tariff NS 6004-B. This new tariff was issued on October 1, 2001, and was effective on October 3, 2001.

In light of NS's withdrawal of the challenged provision, the issues raised by petitioners are moot, and the petitions in these three proceedings will be dismissed.

It is ordered:

1. The petitions filed in STB Docket Nos. 42065, 42066, and 42067 are dismissed as moot.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary